

REMARKS

Claims 1-29 are pending in the present application. In the Office Action mailed October 17, 2007, the Examiner provisionally rejected claims 1-3, 5-7, 12-18, 20-22, 24, 25, and 27 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent Application No. 11/275,195. The Examiner next rejected claims 1-7, 9, 12-22, 24, 25, 27, and 29 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 7,093,032. Claims 1-4, 7, 9, 10, 12-21, and 25-28 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of U.S. Patent No. 6,990,434. Claims 1-6, 10-14, 16-21, 24, 25, and 27-29 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 7,113,894. The Examiner rejected claims 21-29 under §101 as being non-statutory because they recite a computer program per se representing functional descriptive material without a computer or computer readable medium. Claims 1-6 and 8 were rejected under 35 U.S.C. §102(e) as being anticipated by Fenstermaker et al. (USP 6,490,684). Claims 7 and 9-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fenstermaker et al. in further view of Zhang et al. (US Pub. 2002/0152400).

Objections:

The specification is objected to by the Examiner. Per the Examiner's recommendation, paragraph [0028] of the specification has been amended using the language suggested by the Examiner. As such, Applicant respectfully requests withdrawal of the objection to the specification.

The drawings are objected to by the Examiner. The Examiner stated that Fig. 2 was missing reference numeral 112. Please see the enclosed Replacement Sheet for Fig. 2, where the second occurrence of reference numeral 104 has been replaced with the correct reference numeral, 112. In light of the Replacement Sheet, Applicant respectfully requests withdrawal of the objection to Fig. 2.

Rejections:***Obviousness-type double patenting***

The Examiner rejected and provisionally rejected numerous claims (please see above) under the judicially created doctrine of obviousness-type double patenting. Though

Applicant respectfully disagrees with each rejection and provisional rejection, Applicant has nevertheless filed a Terminal Disclaimer concurrently herewith in order to expedite prosecution by obviating the rejections. The \$130 Terminal Disclaimer fee under 37 CFR 1.20(d) is also included.

In light of the properly executed Terminal Disclaimer concurrently filed herewith, Applicant respectfully requests withdrawal of each above-mentioned obviousness-type double patenting rejection and provisional rejection.

§101

The Examiner rejected claims 21-29 under §101 as being non-statutory because “they recite a computer program per se representing functional descriptive material without a computer or computer readable storage medium.” *Office Action*, 10/17/2007, pg. 24. Applicant has amended claim 21 to call for an in-field device located remotely from a centralized facility and comprising a computer programmed to perform acts. Applicant believes the amendment to claim 21 overcomes the Examiner’s rejection. As such, Applicant respectfully requests withdrawal of the §101 rejection to claim 21, and all claims depending therefrom.

§102(e)

The Examiner rejected claim 1 under §102(e) as being anticipated by Fenstemaker et al. Applicant respectfully disagrees. Section 2131 of the MPEP requires that a proper §102(e) anticipatory reference teach each and every element of a claim - Fenstemaker et al. does not do so.

Fenstemaker et al. does not teach, suggest, or disclose selecting a verification script to at least confirm enableability of the option in the in-field device and sending the activation key and the verification script to the in-field device wherein the in-field device is capable of executing the verification script as called for in claim 1. Rather, Fenstemaker et al. only transmits three ‘components:’ 1) a request for a key is transmitted, *Id* at col. 3, lns. 29-31; 2) a key is transmitted, *Id* at col. 3, lns. 33-35; and 3) an acknowledgement to verify receipt of the key may be transmitted, *Id* at col. 3, lns. 41-43. None of the three mentioned ‘components’ are a verification script. There is no teaching or disclosure in Fenstemaker et al. that a verification script is sent to an in-field device capable of executing the verification script. The Examiner asserted that a code, such as a secret feature name, and a feature control manager to verify the received key as taught

in Fenstemaker et al. disclose sending a verification script. However, a secret name code is not equivalent to a script that is executable for verification. There is nothing in Fenstemaker et al. that teaches that the code is executable in an in-field device. Instead, Fenstemaker et al. teaches a validation feature where “the feature control manager 130 compares the serial number of the device 100 and the secret feature name stored in the database 160 with the corresponding information present in the key.” Col. 4, lns. 61-64. The secret feature name is stored in the database on the ultrasound device. The key sent to the ultrasound device, while including verifying information, does not contain a verification script. As such, Fenstemaker et al. does not teach, disclose or suggest selecting the verification script and sending the activation key and the verification script to the in-field device wherein the in-field device is capable of executing the verification script as called for in claim 1.

In addition, Fenstemaker et al. does not teach, suggest, or disclose receiving a report from the in-field device and, if the report is satisfactory, installing the activation key in the in-field device whereby the option is activated and if the report is not satisfactory, aborting activation of the option. That is Fenstemaker et al. does not teach, suggest, or disclose installing an activation key in an in-field device if a report received from the in-field device is satisfactory or aborting activation of an option resident in the in-field device if the report received from the in-field device is not satisfactory. Fenstemaker et al. discloses that the remote source receives an acknowledgement from the ultrasound device. *Id* at col. 3, lns. 41-43. However, the acknowledgement is merely an acknowledgment that the key was received. *Id*. In fact, contrary to that called for in claim 1 where the activation of an option resident in the in-field device is aborted if the report received from the in-field device is not satisfactory, if the acknowledgement is not received, then Fenstemaker et al. teaches that the remote source can retransmit the key. Retransmission of the key is not an abortion of the activation upon receipt of an unsatisfactory report.

Accordingly, that which is called for in claim 1 is not taught, suggested, or disclosed in the art of record. Therefore, Applicant respectfully requests withdrawal of the §102(e) rejection of claim 1, and all claims depending therefrom.

§103(a)

The Examiner rejected claims 13 under §103(a) as being unpatentable over Fenstemaker et al. in view of Zhang et al. Applicant respectfully disagrees. The art of record does not satisfy

the requirement of section 706.02(j) of the MPEP, which states that proper §103(a) references “must teach or suggest all the claim limitations.”

The art of record does not teach, suggest, or disclose a system comprising a remote facility having a computer programmed to select a verification script to check that the in-field device is in condition to activate the inactive option and send the verification script to the in-field device, wherein the in-field device is capable of executing the verification script. The remote source disclosed in Fenstemaker et al. does not select a verification script. Rather, the remote source generates a key. *Id* at col. 3, lns. 34-36. Further, only a key is sent to the ultrasound device – not an executable script. *Id*.

In addition, the art of record does not teach, suggest, or disclose a system having an in-field device programmed to install an activation key in the in-field device to activate the inactive option if the verification script indicates that the in-field device is in condition to activate the inactive option as set forth in claim 13. Fenstemaker et al. discloses a system that activates a feature if a key is found valid. *Id* at col. 3, lns. 61-64. In other words, in Fenstemaker et al., the option activation does not depend on a sent script that has the ability to indicate a device condition. Rather, in Fenstemaker et al., the option activation depends on the contents of a key, not on the device condition indicated by a script.

Accordingly, that which is called for in claim 13 is not taught, suggested or disclosed by the art of record. Therefore, Applicant respectfully request withdrawal of the §103(a) rejection of claim 13, and all claims depending therefrom.

The Examiner rejected claim 21 under §103(a) as being unpatentable over Fenstemaker et al. in view of Zhang et al. Applicant respectfully disagrees. The art of record does not teach, suggest, or disclose all the limitations of claim 21.

To begin, the art of record does not teach, suggest, or disclose a system having an in-field device programmed to send an access request to the centralized facility to request activation of an option of the in-field device as called for in claim 21. Fenstemaker et al. does disclose a key request. *Id* at col. 3, ln. 3. However, sending an access request is not a key request. Rather, it is a request to request activation – not a request for a key or for activation. In other words, sending an access request is not tantamount to sending a request for a key or even for option activation, but rather it is a request to request activation. The request to request activation occurs before a key request. *Application*, pg. 3, ¶¶ [0027]-[0028]. As such, the art of record does not teach, suggest, or disclose such.

In addition, the art of record does not teach, suggest, or disclose a system having an in-field device programmed to receive an activation key uniquely configured to activate the option of the in-field device and a verification script to authenticate a current status of the in-field device. As explained above, the art of record to not teach, suggest, or disclose a verification script received by an in-field device. As set forth in Fenstemaker et al., only one ‘component’ is received by the ultrasound device: a key. *Id* at col. 3, lns. 29-31. Therefore, Fenstemaker et al. does not teach or suggest reception of a verification script.

Further, the art of record does not teach, suggest, or disclose a system having an in-field device programmed to send a report generated by the verification script to the centralized facility indicating the current status of the in-field device as called for in claim 21. The ultrasound device in Fenstemaker et al. transmits two types of ‘components:’ a key request and an acknowledgment. Neither of these ‘components’ indicate the current status of the ultrasound device. The key request is merely a request, and the acknowledgement merely acknowledges that the key had been received. *Id* at col. 3, lns. 27-51. That is, the ultrasound device does not send a report that indicates its current status.

Next, the art of record does not teach, suggest, or disclose a system having an in-field device programmed to install the activation key to activate the option if the current status of the in-field device is determined to be satisfactory by the centralized facility as called for in claim 21. As explained above, Fenstemaker et al. discloses that there is feature activation if the transmitted key is valid. *Id* at col. 3, lns. 61-64. While Fenstemaker et al. may include a unique feature code, (col. 4, lns. 48-50), neither the code nor the key indicate the status of the ultrasound device.

Accordingly, the art of record does not teach, suggest, or disclose all limitation of claim 21. As such, a prima facie case of obviousness has not been shown by the Examiner. Therefore, Applicant respectfully requests withdrawal of the §013(a) rejection to claim 21, and all claims depending therefrom.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-29.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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General Authorization and Extension of Time

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2402. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2402. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2402. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 50-2402.

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